

REMARKS

In the May 23, 2007 Office Action, claims 1-6 and 8-19 stand rejected in view of prior art. Claims 1-6 and 8-19 also were rejected for failing to comply with the enablement requirement. No other objections or rejections were made in the Office Action.

Status of Claims and Amendments

In response to the May 23, 2007 Office Action, Applicants have amended claims 1, 11, 12, 18 and 19 as indicated above. Moreover, Applicants have canceled claims 8, 16 and 17. Thus, claims 1-6, 9-15, 18 and 19 are pending, with claims 1, 11, 12 and 19 being the only independent claims. Reexamination and reconsideration of the pending claims are respectfully requested in view of above amendments and the following comments.

Claim Rejections - 35 U.S.C. §112

In the numbered paragraphs 1 and 2 of the Office Action, claims 1-6 and 8-19 were rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. In response, Applicants have amended independent claims 1, 11, 12 and 19 as indicated above.

Specifically, the independent claims 1, 11, 12 and 19 now clearly recite that the temperature and amount of the gas are adjusted *so that a prescribed thickness of the sealed package is achieved* based upon the difference between the temperature of the outside air and the temperature of the gas. Applicants believe the specification of the present invention contains a description in such full, clear, concise and exact terms as to enable any person skilled in the art to make and use the invention.

Applicants believe that the claims now comply with the enablement requirement under 35 U.S.C. §112, first paragraph. Withdrawal of the rejection is respectfully requested.

Rejections - 35 U.S.C. § 103

In the numbered paragraphs 3 to 7 of the Office Action, claims 1-6 and 8-19 stand rejected under 35 U.S.C. §103(a) as being unpatentable over the prior art of record. More specifically, claims 1, 2, 8, 10-12 and 19 stand rejected as being obvious over Japanese Laid-Open Patent Application Publication No. 4-072160 (hereinafter "Japanese '160 publication"). Claims 3-6 stand rejected as being obvious over the Japanese '160 publication in view of U.S. Patent No. 5,546,733 to Paltrinieri (hereinafter "Paltrinieri patent"). Claim 9 stands rejected as being obvious over the Japanese '160 publication in view of U.S. Patent No. 6,729,108 to Tsuruta (hereinafter "Tsuruta patent"). Claims 13-18 stand rejected as being obvious over the Japanese '160 publication in view of U.S. Patent No. 6,843,037 to Nolfi, Jr. (hereinafter "Nolfi, Jr. patent"). In response, Applicants have amended independent claims 1, 11, 12 and 19 as mentioned above.

More specifically, independent claims 1, 11, 12 and 19 now clearly recite that a ***feedback control*** of the temperature of the gas in a subsequently manufactured package (claims 1, 11 and 19) or a feedback control of the gas temperature modifying unit (claim 12) is performed based on the ***postprocessing information***. Applicants believe such amendments are supported by, for example, the description in lines 16-19 on page 19 of the original specification of the present invention. Clearly this arrangement is ***not*** disclosed or suggested by the Japanese '160 publication, the Paltrinieri patent, the Tsuruta patent, the Nolfi, Jr. patent or any other prior art of record.

As noted by the Examiner, the Japanese '160 publication simply discloses that the temperature of the gas is lower than the ambient temperature and, after sealing, the gas is raised in temperature due to the difference between the inside and outside temperatures and expanded to increase the thickness of the sealed package. However, the Japanese '160

publication is *absolutely silent* about performing a *feedback control* of the temperature of the gas in a subsequently manufactured package based on the postprocessing information of the sealed package as now recited in independent claims 1, 11, 12 and 19. Moreover, Applicants respectfully submit that the Japanese '160 publication also *fails* to disclose that *both* the temperature *and* the amount of the gas supplied to the package are *adjusted* so that a prescribed thickness of the sealed package is achieved based upon the difference between the temperature of the outside air and the temperature of the gas.

Moreover, the secondary references, namely, the Paltrinieri patent, the Tsuruta patent and the Nolfi, Jr. patent, *fail* to provide for the deficiencies of the Japanese '160 publication with respect to the limitations now recited in independent claims 1, 11, 12 and 19. More specifically, *none* of the Paltrinieri patent, the Tsuruta patent and the Nolfi, Jr. patent discloses or suggests performing a *feedback control* of the temperature of the gas in a subsequently manufactured package based on the postprocessing information of the sealed package as now recited in independent claims 1, 11, 12 and 19.

It is well settled in U.S. patent law that the mere fact that the prior art can be modified does *not* make the modification obvious, unless the prior art provides an *apparent reason* for the desirability of the modification. Accordingly, the prior art of record lacks any apparent reason, suggestion or expectation of success for combining the references to create the Applicants' unique arrangement of the packaging apparatus, the packaging method and the packaging system.

Moreover, Applicants believe that dependent claims 2-6, 9, 10, 13-15 and 18 are also allowable over the prior art of record in that they depend from independent claim 1 or 12, and therefore are allowable for the reasons stated above. Thus, Applicants believe that since the prior art of record does not disclose or suggest the invention as set forth in independent

claims 1 and 12, the prior art of record also fails to disclose or suggest the inventions as set forth in the dependent claims.

Also, dependent claims 2-6, 9, 10, 13-15 and 18 are further allowable because they include additional limitations. For example, Applicants respectfully disagree with the assertion of the Office Action in rejecting claims 3-6 that it would have been obvious to one having ordinary skill in the art to provide the temperature control device as taught by the Paltrinieri patent in the apparatus of the Japanese '160 publication. The Japanese '160 publication is directed to a packaging method for packaging a toothbrush in a tubular shape package as shown in Figures 1 and 2 thereof. On the other hand, the Paltrinieri patent discloses an apparatus for *detecting a supply level* of the contents (*liquid or pumpable contents* such as milk, cream, juice etc.) supplied in the package using a change in the temperature on the surface of the package. Since the supply level detection method disclosed in the Paltrinieri patent uses the temperature change on the surface of the package, such method would *not* work as intended unless the contents supplied in the package are liquid or the like that sufficiently contacts with the surface of the package. In other words, it is apparent from the disclosure of the Paltrinieri patent that the supply level detection device disclosed in this patent would *not* be able to perform its intended purpose if the contents in the package were the toothbrushes as disclosed in the Japanese '160 publication. Therefore, one of ordinary skill in the art would *not* combine the teachings of the references to provide the temperature control device as taught by the Paltrinieri patent in the apparatus of the Japanese '160 publication. Thus, Applicants respectfully assert at least the limitations recited in dependent claims 3-6 are *not* rendered obvious over the Japanese '160 publication, the Paltrinieri patent, or any other prior art of record.

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Reply to Office Action of May 23, 2007

Applicants believe the rejections as applied to claims 8, 16 and 17 are now moot in view of the cancellation of these claims.

Accordingly, Applicants respectfully request that the rejections as applied to claims 1-6, 9-15, 18 and 19 be withdrawn in view of the above comments and amendments.

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In view of the foregoing amendment and comments, Applicants respectfully assert that claims 1-6, 9-15, 18 and 19 are now in condition for allowance. Reexamination and reconsideration of the pending claims are respectfully requested.

Respectfully submitted,


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